



General Assembly

February Session, 2010

Raised Bill No. 5379

LCO No. 1592

01592_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

***AN ACT CONCERNING OFFERS OF COMPROMISE IN ARBITRATION
OF CONSTRUCTION CONTRACTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2010*) (a) For the purposes of
2 this section, "construction contract" means any contract entered into on
3 or after the effective date of this section, for construction, renovation or
4 rehabilitation in this state, including any improvements to real
5 property that are associated with such construction, renovation or
6 rehabilitation, or any subcontract for construction, renovation or
7 rehabilitation between an owner and a contractor, a contractor and a
8 subcontractor or a subcontractor and another subcontractor.

9 (b) After any party to a construction contract has made a demand
10 for arbitration pursuant to the dispute resolution provision of such
11 contract, the claimant may, at any time before an award is rendered,
12 apply to the court in the judicial district in which the arbitration is
13 pending for permission to file a written offer of compromise, which
14 offer shall be attached to the application, signed by the claimant or the
15 claimant's attorney and directed to the respondent or the respondent's
16 attorney, offering to settle the claim underlying the arbitration for a

17 sum certain. The court shall grant permission to file such offer if the
18 application and offer of compromise complies with this section. The
19 claimant shall give notice of the offer of compromise to the
20 respondent's attorney or, if the respondent is not represented by an
21 attorney, to the respondent himself or herself. Within thirty days after
22 being notified of the filing of the offer of compromise and prior to the
23 rendering of an order confirming, vacating, modifying or correcting an
24 award or the entering of a judgment or decree upon an award, the
25 respondent or the respondent's attorney may file with the clerk of the
26 court a written acceptance of the offer of compromise agreeing to settle
27 the claim underlying the arbitration for the sum certain specified in the
28 claimant's offer of compromise. Upon such filing and the receipt by the
29 claimant of such sum certain, the claimant shall file a withdrawal of
30 the arbitration with the clerk and the clerk shall record the withdrawal
31 of the arbitration accordingly. If the offer of compromise is not
32 accepted within thirty days and prior to the rendering of an order or
33 the entering of a judgment or decree by the court, the offer of
34 compromise shall be considered rejected and not subject to acceptance
35 unless refiled. Any such offer of compromise and any acceptance of
36 the offer of compromise shall be included by the clerk in the record of
37 the case.

38 (c) After arbitration and upon the application of any party to
39 confirm, vacate or correct the award, the court shall examine the
40 record to determine whether the claimant made an offer of
41 compromise which the respondent failed to accept. If the court
42 confirms the arbitration award and ascertains from the record that the
43 claimant has recovered an arbitration award in an amount equal to or
44 greater than the sum certain specified in the claimant's offer of
45 compromise, the court shall add to the amount of the award twelve
46 per cent annual interest on said amount, in addition to any interest
47 awarded by the arbitrator. The interest shall be computed from the
48 date the arbitration commenced. The court shall award reasonable
49 attorney's fees and shall render judgment accordingly. This section
50 shall not be interpreted to abrogate the contractual rights of any party

51 concerning the recovery of attorney's fees in accordance with the
52 provisions of any written contract between the parties to the
53 arbitration.

54 Sec. 2. Section 42-158m of the general statutes is repealed and the
55 following is substituted in lieu thereof (*Effective October 1, 2010*):

56 Any provision in a construction contract for the performance of
57 work on a construction site located in this state that purports to require
58 that any dispute arising under the construction contract be mediated,
59 arbitrated or otherwise adjudicated in or under the laws of a state
60 other than Connecticut shall be void and of no effect, regardless of
61 whether the construction contract was executed in this state.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	New section
Sec. 2	<i>October 1, 2010</i>	42-158m

Statement of Purpose:

To authorize a claimant in an arbitration of a construction contract to file an offer of compromise.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]